

**Submission of
Title VI Implementation Plans
June 30, 1998**

March 17, 1999

The Honorable John S. Wilder
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the report on the submission of Title VI implementation plans. This review was conducted pursuant to the requirements of Section 4-21-901, *Tennessee Code Annotated*.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/dww

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INTRODUCTION

AUTHORITY

Chapter 502 of the Public Acts of 1993 (Section 4-21-901, *Tennessee Code Annotated*) requires those state agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 to develop a Title VI implementation plan. These plans were to be submitted to the Department of Audit by June 30, 1994, and are to be submitted each June 30 thereafter.

Section 4-21-901 further requires the Department of Audit to publish, at least once a year, a cumulative report of its findings and recommendations concerning compliance with the statute's requirements. Pursuant to that directive, this report will identify the plans submitted to the Department of Audit.

OBJECTIVES OF THE REVIEW

The objectives of the review were to summarize the purpose and scope of Title VI and to detail agencies' compliance with the reporting requirements in *Tennessee Code Annotated*, Section 4-21-901.

SCOPE AND METHODOLOGY OF THE REVIEW

The Title VI plans submitted to the Department of Audit are the result of a self-reporting process in which each agency drafts its own plan. The Division of State Audit's review of the agencies' plans was limited to whether the plans had been submitted.

Accordingly, we do not attempt to express an opinion on the implementation of the provisions in the plans. Rather, this review will be limited to determining if Title VI implementation plan documents were submitted.

PURPOSE AND SCOPE OF TITLE VI

Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, states, "No person in the United States shall, on the ground of race, color or national origin, be excluded from

participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.”

Title VI is intended to prohibit discrimination on the basis of race, color, or national origin in federally assisted programs even if federal money makes up only a portion of the program’s budget. The emphasis of Title VI is on services provided by a government agency to the citizens of a given area. If federal money is used to provide services, Title VI applies, and services must be delivered in a nondiscriminatory manner.

A recipient of federal assistance violates Title VI when it

- denies an individual service, aid, or benefits because of race, color or national origin;
- provides only inferior or discriminatory service, aid, or benefits because of any individual’s race, color, or national origin;
- subjects an individual to segregation or different treatment in relation to aid, services, or benefits because of race, color, or national origin;
- restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- uses criteria which would impair accomplishment of the act’s objectives or which would subject individuals to discrimination because of race, color, or national origin;
- discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or
- subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

TITLE VI PLAN GUIDELINES

The Human Rights Commission has issued guidelines for the development of Title VI implementation plans. By following these guidelines, agencies can ensure that their plan documents are comprehensive and complete.

OBSERVATIONS AND COMMENTS

In general, most agencies have taken the steps necessary to prepare vigorous Title VI implementation plans. See Conclusions for the status of submission of implementation plans for fiscal years 1995 through fiscal year 1999.

As reported in *Tennessee State Agencies and Title VI of the Civil Rights Act of 1964*, issued in 1994 by the Comptroller's Office of Local Government, many state agencies receiving federal funding were generally unaware of or had little knowledge of their responsibilities under Title VI. This situation arose, in part, because the federal entity responsible for coordinating implementation of Title VI—the U.S. Department of Justice—placed little emphasis on and provided no guidance on Title VI compliance.

Because most state agencies knew little about Title VI compliance issues, many referred to existing plans and examples for guidance when drafting their 1994-95 plans. The examples, however, lacked several elements necessary for compliance with U.S. Department of Justice guidelines. Governor Ned McWherter assigned the responsibility of monitoring Title VI compliance to the State Planning Office on March 1, 1994. As the State Planning Office received the implementation plans, staff reviewed the plans and compared them to the guidelines. State Planning then sent comments on weaknesses noted and requested revised plans. As a result, several agencies submitted revised plans that satisfied the necessary Title VI requirements. On June 12, 1995, the State Planning Office was repealed by Chapter 501, Public Acts of 1995. The Human Rights Commission has taken on the role of monitoring the plans. However, as of December 1998, the monitoring responsibility had not been officially assigned to any government agency.

Filing Title VI Complaints of Discriminatory Practices

Tennessee Code Annotated, Section 4-21-905, specifies the procedures for filing a complaint concerning discriminatory practices. Any person claiming to be aggrieved by a discriminatory practice under this part has 180 days to file a complaint with the state agency receiving federal funds. An aggrieved person may also file a complaint with the Human Rights Commission, as provided in *Tennessee Code Annotated*, Section 4-21-302. Complaints filed with state agencies are subject to review by the Human Rights Commission for applicability under Title VI of the Civil Rights Act of 1964.

During fiscal year 1997-98, five state departments, the Tennessee Board of Regents, and the University of Tennessee received Title VI complaints. Except for the complaints filed by inmates against the Department of Correction, we reviewed the current status of these complaints.

The Department of Education received one complaint against Harriman City Schools. The parents of a student alleged that the school allowed disciplinary practices that discriminated against their child. A joint task force of the Department of Education and the local NAACP

investigated the complaint. The investigation showed no racial discrimination, and the case was closed.

The Department of Environment and Conservation received one Title VI complaint filed against the City of Murfreesboro and Rutherford County by the president of the local chapter of NAACP. The complaint alleged that minorities were not included on the board for water and wastewater, specifically, nor other boards and commissions, in general. The Title VI investigator found that no ethnic minorities or women were represented on the board of water and wastewater, nor were any ethnic minorities or women represented on other boards and commissions. Neither the city nor the county had policies and procedures in place to govern the selection of ethnic minorities and women to serve on boards and commissions. The investigator stated that city and county officials agreed to increase their effort to include ethnic minorities and women on the boards and commissions. The officials also agreed to establish policies and procedures to govern the selection of ethnic minorities and women on all boards and commissions. Currently, one woman has been selected to serve on the water and wastewater board; however, no ethnic minority presently serves on any boards or commissions. This case is still open and the Title VI complaints investigator plans to follow up.

The Department of Human Services received one Title VI complaint from a resident of Knoxville, alleging racial and disability discrimination stemming back to 1994. The complainant said department personnel conspired to keep her and other African-Americans from starting childcare businesses. The complaint was investigated by the department's Title VI personnel in Knoxville. The investigation results showed no evidence of racial or disability discrimination, and the case was closed.

Two Title VI complaints were received by the Department of Transportation. The first complaint filed by the Bartlett North Basin Action Committee against the City of Bartlett consisted of three allegations: (1) The plans to widen the Old Brownsville Highway that runs through a predominately African-American neighborhood were replaced by a decision to build a new road in a predominately white neighborhood. (2) The Brownsville Community was not provided water and wastewater services. (3) The liens placed against the homes of the residents of Brownsville Community, by the City of Bartlett, were based on race and were illegal. The Department of Transportation's Title VI Coordinator conducted a fact-finding mission and addressed all the issues with the Bartlett North Basin Action Committee. The U.S. Department of Housing and Urban Development conducted an investigation and sent a letter to the committee. The committee raised no other concerns about the three issues in the complaint. According to the department's Title VI Coordinator, all issues were resolved.

The second complaint was filed against the Department of Transportation by Memphis minority contractors and the Nashville Chapter of the NAACP. The complaint alleges that the Disadvantaged Business Enterprise Program discriminates against ethnic and racial minorities, particularly African-Americans. There was no investigation; however, a lawsuit is on file against the State of Tennessee and the department. This complaint is currently pending.

The Tennessee Board of Regents received three Title VI complaints during fiscal year 1997-98. A minority student filed a complaint against Roane State Community College, alleging that he was denied admission to the allied health program because of his race and disability. This complaint is currently under review by the Human Rights Commission.

Another minority student filed a complaint against Austin Peay State University, claiming racial discrimination. The student was dismissed from Austin Peay, in accordance with university policy, after she failed a course for the third time. The university's general counsel and the Title VI coordinator investigated the complaint. The investigation resulted in no determination of liability; however, the student and Austin Peay agreed that if the student passed the course at another university, she would be allowed to re-enroll. This case is pending.

A third minority student filed a complaint against Austin Peay, claiming her registration was placed on hold and courses from another institution were not accepted based on race. The university's general counsel and the Title VI coordinator investigated this complaint, but a determination of liability was never made. The university and the student reached an agreement, and the case was resolved.

Three Title VI complaints were made against the University of Tennessee during fiscal year 1997-98. A graduate student filed a complaint against an instructor, alleging different treatment of grades because of race. The Department of Diversity Resources and Education Services investigated the complaint and found no discrimination. The student was given assistance in correcting grade deficiencies and graduated. This complaint was closed.

A student filed a complaint against an instructor for racial comments. The Department of Diversity Resources and Education Services did not find enough information to support the allegation. The student was allowed to start over with another instructor. The complaint was closed.

A graduate student filed the third complaint against an instructor, challenging a grade based on race. The investigation by the Department of Diversity Resources and Education showed that this was the second time the student had been placed on probation because of failing grades. The student was dismissed from UT graduate school. This complaint was closed.

CONCLUSIONS

Title VI Implementation Plans

As of December 1, 1998, all state agencies required to submit a Title VI Implementation Plan for fiscal year 1999 had done so. Appendix A presents the status of Title VI implementation plans submitted for fiscal years 1995 through 1999.

Title VI Complaints

See Appendix B for the number of complaints filed with state agencies during fiscal years 1995 through year 1998.

Summary

The true measure of successful compliance, however, will not hinge so much on whether plans have been prepared and submitted but rather on whether the provisions contained in the plans are actually carried out. The Human Rights Commission should, therefore, be vigilant in making the public aware of citizens' rights under Title VI of the Civil Rights Act of 1964 and investigating any complaints government agencies or the commission receives concerning violations of Title VI.

In addition to the commission's investigation of complaints, the Division of State Audit's financial and compliance audit reports of agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 will include material violations of Title VI requirements noted during the audit. The audits for fiscal years ending June 30, 1994, through June 30, 1998, contain no findings addressing violations of Title VI.

Appendix A

Status of Title VI Implementation Plans As of December 1, 1998

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>
Commission on Aging	June 30, 1994 Revised Sept. 16, 1994	June 30, 1995	June 28, 1996	July 1, 1997	July 1, 1998
Department of Agriculture	June 30, 1994 Revised Nov. 7, 1994	June 30, 1995, letter stated prior plan remained in effect	June 27, 1996, letter stated plan being revised	July 10, 1997	July 21, 1998
Alcoholic Beverage Commission	October 25, 1994	June 29, 1995	July 11, 1996	July 3, 1997	July 29, 1998
Arts Commission	July 29, 1994 Revised Nov. 10, 1994	June 30, 1995	July 8, 1996	June 24, 1997	June 30, 1998
Commission on Children and Youth	June 30, 1994 Revised Sept. 30, 1994	June 30, 1995	June 28, 1996	June 30, 1997	June 30, 1998
Department of Children's Services ¹	August 1, 1994	June 28, 1995	June 28, 1996	June 30, 1997	July 8, 1998
Department of Commerce and Insurance	No federal funds	No federal funds	No federal funds	No federal funds	June 29, 1998
Department of Correction	August 17, 1994 Revised Nov. 18, 1994	June 30, 1995 Revised Aug. 21, 1995	June 28, 1996	June 27, 1997	June 30, 1998
Administrative Office of the Courts	Entity indicated report pending per letter dated December 15, 1994	August 23, 1995	April 4, 1997	July 9, 1997	June 30, 1998

¹ FY 95 and FY 96 plans were submitted by the Department of Youth Development.

**Status of Title VI Implementation Plans
As of December 1, 1998 (cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>
District Attorneys General Conference	Entity indicated report pending per letter dated December 21, 1994	July 6, 1995	June 28, 1996	July 25, 1997	June 30, 1998
District Public Defenders Conference	December 8, 1994	June 8, 1995	July 3, 1996	June 30, 1997	July 1, 1998
Department of Commerce and Insurance	No federal funds	No federal funds	No federal funds	No federal funds	June 29, 1998
Department of Economic and Community Development	August 17, 1994	June 26, 1995	October 4, 1996	June 30, 1997	June 30, 1998 Revised Sept. 30, 1998
Department of Education	July 12, 1994 Revised Nov. 2, 1994	June 30, 1995	June 28, 1996	June 30, 1997	June 30, 1998
Department of Employment Security	July 14, 1994	June 30, 1995	June 27, 1996	May 1, 1997	June 30, 1998
Department of Environment and Conservation	December 21, 1994	June 30, 1995	June 28, 1996	July 1, 1997	June 30, 1998
Executive Department	June 30, 1994	No federal funds	No federal funds	No federal funds	No federal funds
Department of Finance and Administration	July 1, 1994 Revised Sept. 12, 1994	July 31, 1995	July 1, 1996	June 30, 1997	July 2, 1998
Department of General Services	August 16, 1994 Revised Sept 9, 1994, and Nov. 4, 1994	June 30, 1995, letter stated the prior plan remained in effect	June 28, 1996	June 30, 1997	June 30, 1998

**Status of Title VI Implementation Plans
As of December 1, 1998 (cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>
Department of Health	August 5, 1994 Revised Nov 28, 1994	June 16, 1995	July 3, 1996	July 1, 1997	June 30, 1998
Human Rights Commission	December 8, 1994	August 4, 1995	October 14, 1996	December 15, 1997	July 1, 1998
Department of Human Services	August 10, 1994	July 7, 1995 Revisions to follow	June 13, 1996	June 30, 1997	June 30, 1998
Council of Juvenile and Family Court Judges	June 30, 1994	June 30, 1995, letter included in Commission on Children and Youth's plan	July 3, 1996	Covered by Commission on Children and Youth's plan	Covered by Commission on Children and Youth's plan
Department of Labor	July 5, 1994	June 29, 1995	September 6, 1996	July 1, 1997	August 7, 1998
Department of Mental Health and Mental Retardation	Entity indicated report pending per letter dated June 30, 1994	June 28, 1995	July 3, 1996	July 1, 1997 Revised Jan. 29, 1998	June 30, 1998
Military Department	June 29, 1994 Revised Oct. 20, 1994	June 30, 1995, letter stated prior plan remained in effect	June 27, 1996	June 30, 1997, letter stated the prior plan remained in effect	July 1, 1998
Department of Revenue	Entity indicated report pending per letter dated December 21, 1994	June 30, 1995	July 5, 1996	June 30, 1997	July 1, 1998
Department of Safety	June 30, 1994	June 30, 1995	June 28, 1996	June 26, 1997	December 1, 1998

**Status of Title VI Implementation Plans
As of December 1, 1998 (cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>
Department of State	July 1, 1994 Revised Sept. 13, 1994	June 30, 1995	June 28, 1996	June 30, 1997	June 30, 1998
Tennessee Board of Regents	June 30, 1994 Revised Sept. 15, 1994, and Nov. 4, 1994	July 14, 1995, letter stated prior plan remained in effect	May 2, 1996	June 30, 1997	September 30, 1998
Tennessee Bureau of Investigation	November 28, 1994	June 30, 1995 Revised Dec. 20, 1995	July 5, 1996	June 30, 1997	June 30, 1998
Tennessee Higher Education Commission	November 21, 1994	June 30, 1995	July 1, 1996	June 24, 1997	July 14, 1998
Tennessee Housing Development Agency	June 30, 1994	June 29, 1995, letter stated prior plan remained in effect	July 1, 1996	June 30, 1997	July 8, 1998
Tennessee Regulatory Authority ²	July 1, 1994	June 30, 1995	July 24, 1996	July 2, 1997	June 30, 1998
Tennessee Student Assistance Corporation	June 30, 1994	July 28, 1995, letter updating prior plan	July 3, 1996	July 9, 1997	July 17, 1998
Tennessee Wildlife Resources Agency	June 30, 1994	June 30, 1995	July 2, 1996	July 10, 1997	November 24, 1998
Department of Transportation	August 15, 1994	July 10, 1995, letter stated prior plan remained in effect	May 31, 1996	June 30, 1997	June 30, 1998

² FY 95 and FY 96 plans were submitted by the Public Service Commission.

**Status of Title VI Implementation Plans
As of December 1, 1998 (cont.)**

<u>State Entity</u>	<u>FY 95 Plan Submitted</u>	<u>FY 96 Plan Submitted</u>	<u>FY 97 Plan Submitted</u>	<u>FY 98 Plan Submitted</u>	<u>FY 99 Plan Submitted</u>
Department of the Treasury	August 17, 1994 Revised Nov. 3, 1994	June 30, 1995, letter stated prior plan remained effect Updated Aug. 17, 1995	August 23, 1996	January 6, 1997	November 17, 1998
University of Tennessee	December 15, 1994	June 19, 1995	August 8, 1996	June 9, 1997	June 19, 1998
Department of Veterans' Affairs	June 30, 1994 Revised Sept. 14, 1994	June 30, 1995	June 24, 1996	June 30, 1997	June 30, 1998

The following agencies have reported that they have no federal funds and, therefore, are not subject to Title VI requirements:

Office of the Attorney General and Reporter
Office of the Comptroller of the Treasury
Department of Financial Institutions
Fiscal Review Committee
Health Facilities Commission
Office of Legislative Administration

Obion-Forked Deer Basin Authority
Board of Paroles
Department of Personnel
Tennessee Advisory Commission on Intergovernmental Relations
Tennessee Corrections Institute
Department of Tourist Development

Appendix B

Title VI Complaints Reported

<u>Entity</u>	<u>FY 95</u>	<u>FY 96</u>	<u>FY 97</u>	<u>FY 98</u>
Commission on Aging	-	-	-	-
Department of Agriculture	-	-	-	-
Alcoholic Beverage Commission	-	-	-	-
Arts Commission	-	-	-	-
Commission on Children and Youth	-	-	-	-
Department of Children's Services	-	-	-	-
Department of Commerce and Insurance	-	-	-	-
Department of Correction	-	-	199 ¹	198 ¹
Administrative Office of the Courts	-	-	-	-
District Attorneys General Conference	-	-	-	-
District Public Defenders Conference	-	-	-	-
Department of Economic and Community Development	-	-	-	-
Department of Education	2	2	2	1
Department of Employment Security	-	-	-	-
Department of Environment and Conservation	-	-	-	1
Executive Department	-	-	-	-
Department of Finance and Administration	-	-	-	-
Department of General Services	-	1	-	-
Department of Health	-	-	-	-
Human Rights Commission	-	-	-	-
Department of Human Services	-	-	-	1
Council of Juvenile and Family Court Judges	-	-	-	-
Department of Labor	-	-	-	-
Department of Mental Health and Mental Retardation	-	-	-	-
Military Department	-	-	-	-
Department of Revenue	-	-	-	-
Department of Safety	-	-	-	-
Department of State	-	-	-	-
Tennessee Board of Regents	3	-	-	3
Tennessee Bureau of Investigation	-	-	-	-
Tennessee Higher Education Commission	-	-	-	-
Tennessee Housing Development Agency	-	-	-	-
Tennessee Regulatory Authority	-	-	-	-
Tennessee Student Assistance Corporation	-	-	-	-
Tennessee Wildlife Resources Agency	-	-	-	-
Department of Transportation	-	-	-	2
Department of the Treasury	-	-	-	-
University of Tennessee	-	-	-	3
Department of Veterans' Affairs	-	-	-	-

¹ Complaints filed by inmates.